

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

Case No.: 10-12706

Currency \$7,500,

Honorable Sean F. Cox

Defendant.

/

ORDER GRANTING CLAIMANT LEAVE TO FILE AMENDED ANSWER

Plaintiff, United States of America (“the Government”) filed this forfeiture action on July 8, 2010. (Docket Entry No. 1). Rule G(5)(b) of the Supplemental Rules of Admiralty or Maritime Claims and Asset Forfeiture Actions requires a claimant in a forfeiture action to file an answer to the complaint within 21 days after filing a claim. On August 16, 2010, Claimant Dontay Adams (“Adams”), proceeding *pro se*, filed an answer that failed to address the Government’s Complaint for forfeiture. (Docket Entry No. 8). On November 4, 2010, the Government requested a Clerk’s Entry of Default, which the Clerk granted the same day. On November 18, 2010, Plaintiff filed a Motion for Default Judgment as to Defendant Currency \$7,500. (Docket Entry No. 14). The Court heard oral argument on the Government’s motion on February 3, 2011. Adams presented his claim at the hearing.

Considering Adams’ *pro se* status and the arguments he presented at the hearing, the Court finds that it would be in the interest of justice to allow Adams to amend his answer, pursuant to FED. R. CIV. P. 15(a)(2). Rule 15(a)(2) provides that “a party may amend its

pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires." In determining whether to grant an amendment under Rule 15(a), the Sixth Circuit has held that a number of factors should be considered, including "[u]ndue delay in filing, lack of notice to the opposing party, bad faith by the moving party, repeated failure to cure deficiencies by previous amendments, undue prejudice to the opposing party, and futility of amendment." *Wade v. Knoxville Utilities Bd.*, 259 F.3d 452, 458-59 (6th Cir.2001).

Although Adams' answer failed to address the Government's forfeiture allegations, it was timely filed and made in good faith. The Government will not be prejudiced if the Court allows Adams to amend his answer because the case is in the earliest stages of litigation. Finally, Adams has not filed any previous amendments to his answer and an amended answer will not be futile, as it would allow Adams an opportunity to set aside the Clerk's Entry of Default.

Accordingly, Claimant Dontay Adams is **ORDERED to file an AMENDED ANSWER, no later than March 1, 2011.** Adams' amended answer should address his defenses to the Government's Complaint for Forfeiture, just as he presented them to the Court during the February 3, 2011 hearing on the matter.

IT IS SO ORDERED.

S/ Sean F. Cox
Sean F. Cox
United States District Judge

Date: February 14, 2011

I hereby certify that on February 14, 2011, a copy of the foregoing document was served upon

counsel of record by electronic means and by First Class Mail upon:

Dontay Leon Adams
13309 Kilbourne
Detroit, MI 48212

S/ Jennifer Hernandez

Case Manager